



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, RPP, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for return of all or part of the pet damage deposit or security deposit; for an order that the landlord return the tenant's personal property; and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents by registered mail on March 21, 2014, no one for the landlord attended. The tenant has provided proof of such service and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participant who joined the conference call was the tenant.

All evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the tenant established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

- Has the tenant established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?
- Has the tenant established that the landlord should be ordered to return the tenant's personal property?

Background and Evidence

The tenant testified that this month-to-month tenancy began on January 25, 2014 and ended on February 28, 2014. A hand-written tenancy agreement has been provided which states that rent is \$900.00 per month including utilities, being hydro, electricity/heat, wireless internet, cable and laundry. The tenant testified that the landlord told the tenant that rent in the amount of \$800.00 per month was payable in advance on the 1st day of each month in addition to \$100.00 per month for utilities, and then wrote \$900.00 per month including utilities on the tenancy agreement.

The tenant also testified that the landlord requested a security deposit in the amount of \$1,000.00 and the tenant was new to Canada and did not know the landlord could not request that much. However, the tenancy agreement shows that the tenant paid \$400.00 on December 7, 2013 and the balance of \$600.00 was to be paid at a later date. The tenant has provided a copy of a cheque written to the landlord for an additional \$600.00 dated December 18, 2013 and proof that the landlord cashed it.

Once the tenant moved into the rental unit, there was no cable and no laundry. When the tenant spoke to the landlord about it, the landlord told the tenant she could move out right away, but the tenant did not want to incur that expense again. Rent was paid for the month of February, 2014. However, the rental unit was not quiet; a lot of noise and yelling, and the tenant gave the landlord notice to vacate the rental unit.

The tenant moved out of the rental unit and sent to the landlord a request for return of the security deposit by registered mail, and has provided proof of such service. A copy of the letter to the landlord has also been provided which contains a forwarding address for the tenant. The letter is dated March 3, 2014 and the registered mail was sent on March 4, 2014. The tenant testified that the landlord accepted the mail but did not reply to the tenant, and no part of the security deposit has been returned. The tenant applies for double return of the security deposit.

The tenant also testified that mail is going to the rental unit, and the tenant has provided a change of address form to Canada Post, but requests an order that the landlord forward mail to the tenant's forwarding address. The landlord resides in the upper unit of the home and the rental unit is a basement suite of that home.

Analysis

The *Residential Tenancy Act* states that a landlord must return a security deposit or pet damage deposit in full to the tenant or make an application for dispute resolution claiming against it within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. If the landlord fails to do so, the landlord must be ordered to return double the amount to the tenant.

In this case, I am satisfied that the tenancy ended on February 28, 2014 and that the tenant has provided proof of paying \$1,000.00 security deposit to the landlord, as well as proof that the tenant requested it back in a letter that contains the tenants forwarding address. The *Act* states that documents served by registered mail are deemed to have been served 5 days after mailing. I accept the evidence provided by the tenant that the letter was sent on March 4, 2014 and I find that it was deemed served on the landlord on March 9, 2014. I further accept the testimony of the tenant that the landlord has not replied and has not returned any portion of the security deposit, and the tenant is entitled to recovery of double the amount paid to the landlord.

The tenant's application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement was not claimed by the tenant as an additional monetary request, and the tenant testified that it was in relation to doubling the security deposit. Having ordered double the amount of the security deposit in favour of the tenant, I am not satisfied that any additional monetary claim has been made or established, and I dismiss that portion of the tenant's claim.

I also accept the testimony of the tenant that mail may still be going to the rental unit, and I order the landlord to forward any mail addressed to the tenant or the tenant's family to the address provided by the tenant.

Since the tenant has been partially successful with the application, the tenant is also entitled to recovery of the \$50.00 filing fee for the cost of the application, and I order the landlord to pay to the tenant the sum of \$2,050.00.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord in the amount of \$2,050.00 pursuant to Section 67 of the *Residential Tenancy Act*.

I further order the landlord to forward any mail addressed to the tenant or to the tenant's family to the address provided by the tenant in the letter dated March 3, 2014.

The tenant's application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement is hereby dismissed.

These orders are final and binding and may be enforced.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 08, 2014

Residential Tenancy Branch

